Division Bench

BEFORE THE HIGH COURT OF CHHATTISGARH AT BILASPUR

MA- 359 2005(DB)

APPELLANTS / APPLICANTS :

01. Ravi Shankar Panday aged about 45 years S/o late Shri Nivas Panday.

02. Smt Pramila aged about 42 years W/o Ravi Shankar Panday.

03. Ritesh Kumar Panday aged about 18½ years S/o Ravi Shankar Panday.

R/o Near Panchmukhi Hannuman Mandir, Model Town, Po. Nehrunagar Dist : Durg (CG).

VERSUS

RESPONDENTS / NON-APPLICANTS :

01. Rajendra Kunnauje aged about 23 years S/o Chhannu Lal Kannauje, R/o Rengakatera, Ps. Lalbag, Distt : Rajnandgaon (CG)
(Driver of Matador no. MP-24C/0321)

02. Kailashchand Sharma S/o Virdichand Sharma, Kanko Transport, G.E. Road, Po. & Distt : Rajnandgaon.
(Owner of Matador no. MP-24C/0321)

03. The National Insurance Co. Ltd. Through Divisional Manager, Akash Ganga, Po. Supela, Dist : Durg (CG)

P.R. No. 763/05 Presented by Shri ... dated 15-12-05

APPEAL U/S 173 OF MOTOR VEHICLES ACT, 1988

Claim in appeal Rs. 3,70,000/-

(18)

HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR
(Division Bench)

CORAM : **Hon'ble Shri S.R. NAYAK, CJ**
& Hon'ble Shri Satish K. Agnihotri, J.

MISC. APPEAL NO.369 OF 2005

Ravi Shankar Pandey and others.

Versus

Rajendra Kunnauje and others.

Present: Mr. B.R. Ghosh learned counsel for the appellants.

ORDER
(Passed on 21st of November 2005)

The following Order of the Court was passed by

S.R. Nayak, CJ:

In a death case, the claimants who are parents of the deceased have preferred this appeal for enhancement of the compensation. The Tribunal taking the monthly income of the deceased at Rs.3,000/- and having deducted 1/3rd of the same towards personal expenses of the deceased had computed loss of dependency and awarded total compensation of Rs.3,43,000/- with interest at the rate of 9% per annum.

2. The only contention of the learned counsel for the appellants-claimants is that in computing the loss of dependency, the Tribunal has not taken into account the future prospect of the deceased earning more income if he were to alive. We pointedly asked learned counsel for the appellants whether the claimants have led any evidence

before the Tribunal to show that if the deceased were to alive he would have earned more monthly income than Rs.3,000/- taken by the Tribunal for the purpose of computation of the loss of dependency and the learned counsel would fairly tell us that no such evidence is led before the Tribunal to prove the claim. In the absence of the material evidence, we cannot take any exception to the award passed by the Tribunal. Be that as it may, the Tribunal has deducted 1/3rd of the income of the deceased towards his personal expenses instead of deducting 50% of the income normally done in such cases. The rate of interest awarded by the Tribunal is also on higher side. Looking from any angle we do not find failure of justice. The award passed by the Tribunal is just and reasonable which does not warrant our interference. The appeal is, therefore, dismissed, however, with no costs.

Sd/-
Chief Justice

Sd/-
Satish K. Agnihotri
Judge

Brajesh*